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Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

FRANK HEADLEY,

Plaintiff,

V.

WALMART STORES, INC.,

Defendant.

Case No. CV-20-46-GF-BMM

NOTICE OF REMOVAL

TO: The Clerk of the United States District Court for the District of Montana, Great Falls Division.

Defendant, Walmart Stores, Inc. (“Defendant”), notifies the Court that it has removed the above-referenced action from the Montana Eighth Judicial District Court, Cascade County, Case No. CDV-20-0193, pursuant to 28 U.S.C. §§ 1332 and 1441. In support of its removal, Defendant states as follows:

1. This action is being removed to Federal Court based upon diversity of citizenship.

2. On April 7, 2020, Plaintiff, Frank Headley (“Plaintiff”), filed the above-entitled civil action in the Montana Eighth Judicial District Court, Cascade County. Defendant waived service effective May 13, 2020, and an answer is therefore due on June 3, 2020 pursuant to Rule 12(a)(1)(A) of the Montana Rules of Civil Procedure. The action is wholly

civil in nature, and the United States District Court for the District of Montana, Great Falls Division, has original jurisdiction under 28 U.S.C. § 1332 and the action may be removed by Defendant pursuant to 28 U.S.C. § 1441.

3. This Court has diversity of citizenship jurisdiction over the action because Plaintiff's allegations establish that the controversy is between citizens of different states. Specifically, Plaintiff alleges that he "is a resident of Great Falls, Cascade County, Montana" (Complaint, ¶1). Defendant is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in the State of Arkansas (Ex. 1, SOS Information, authenticated by Ex. C, Declaration of Christopher R. Hedican, ¶2).

4. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff alleges that he earned "approximately \$40,000.00 per year" and also worked overtime and received fringe benefits (Complaint, ¶5). Plaintiff requests damages for "lost wages and fringe benefits for four (4) years from the date of discharge." (Complaint, Wherefore Clause ¶1). Four years of wages amounts to \$160,000 per year, which makes Plaintiff's claimed damages exceed \$75,000 exclusive of interest and costs.

5. This Notice of Removal is being filed pursuant to 28 U.S.C. § 1446 within thirty days of service of the Complaint on or about May 6, 2020.

6. Attached as Exhibit "A" and incorporated by reference is a true and correct copy of the pleadings served upon Defendant and removed by this notice.

7. Attached as Exhibit "B" is a true and correct copy of the Notice of Filing of Notice of Removal which has been served with this document on all parties and filed with the Montana Eighth Judicial District Court, Cascade County.

8. Attached as Exhibit "C" is a true and correct copy of the Declaration of Christopher R. Hedican, Defendant's counsel, authenticating Exhibit "1," which is a true and correct copy of the information obtained from the Montana Secretary of State's website.

WHEREFORE, Defendant notifies the court of the removal of this action from the Montana Eighth Judicial District Court, Cascade County, to the United States District Court for the District of Montana, Great Falls Division.

DATED this 2nd day of June 2020.

WALMART STORES, INC., Defendant,

By: /s/ Christopher R. Hedican
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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Eric D. Mills – eric@406attorneys.com

and I hereby certify that I have mailed by United States Postal Service, postage prepaid, this document to the following non CM/ECF participants:

None.

/s/ Christopher R. Hedican